

ORIGINAL

OPEN MEETING ITEM



0000175151

**COMMISSIONERS**  
DOUG LITTLE - Chairman  
BOB STUMP  
BOB BURNS  
TOM FORESE  
ANDY TOBIN



ARIZONA CORPORATION COMMISSION

RECEIVED  
AZ CORP COMMISSION  
DOCKET CONTROL

2016 DEC -1 P 1:12

DATE: DECEMBER 1, 2016

DOCKET NO.: T-03243A-16-0352

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Brian D. Schneider. The recommendation has been filed in the form of an Order on:

PRIMUS TELECOMMUNICATIONS, INC.  
(CC&N CANCELLATION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

DECEMBER 12, 2016

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:


DECEMBER 19, 2016 AND DECEMBER 20, 2016

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

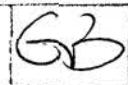
Arizona Corporation Commission

DOCKETED

DEC 01 2016

  
JODI A. JERICH  
EXECUTIVE DIRECTOR

DOCKETED BY



1200 WEST WASHINGTON STREET: PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET: TUCSON, ARIZONA 85701-1347

[www.azcc.gov](http://www.azcc.gov)

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail [SABernal@azcc.gov](mailto:SABernal@azcc.gov).

On this 1<sup>st</sup> day of December, 2016, the following document was filed with Docket Control as a Recommended Order from the Hearing Division, and copies of the document were mailed on behalf of the Hearing Division to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the filed document to the following who have consented to email service.

Michael Nowlan  
Chief Executive Officer  
PRIMUS TELECOMMUNICATIONS, INC.  
7901 Jones Branch Drive, Suite 900  
McLean, Virginia 22102

Janet Wagner, Interim Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007  
Attorneys for Utilities Division  
[Legaldiv@azcc.gov](mailto:Legaldiv@azcc.gov)  
[JXHatch-Miller@azcc.gov](mailto:JXHatch-Miller@azcc.gov)  
**Consented to Service by Email**

By:



Rebecca Tallman  
Assistant to Brian D. Schneider

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 DOUG LITTLE – Chairman  
4 BOB STUMP  
5 BOB BURNS  
6 TOM FORESE  
7 ANDY TOBIN

8 IN THE MATTER OF THE APPLICATION OF  
9 PRIMUS TELECOMMUNICATIONS, INC. FOR  
10 CANCELLATION OF ITS CERTIFICATE OF  
11 CONVENIENCE AND NECESSITY AND  
12 DISCONTINUANCE OF SERVICE.

DOCKET NO. T-03243A-16-0352

DECISION NO. \_\_\_\_\_

**ORDER**

13 Open Meeting  
14 December 19 and 20, 2016  
15 Phoenix, Arizona

16 **BY THE COMMISSION:**

17 *Having considered the entire record herein and being fully advised in the premises, the Arizona*  
18 *Corporation Commission ("Commission") finds, concludes, and orders that:*

19 \* \* \* \* \*

20 **FINDINGS OF FACT**

21 1. On March 30, 2001, the Commission issued Decision No. 63529, approving Primus  
22 Telecommunications, Inc.'s ("Primus") application for a Certification of Convenience and Necessity  
23 ("CC&N") to provide resold interexchange telecommunications services within the State of Arizona.

24 2. On June 27, 2016, the Commission issued Decision No. 75602, granting a waiver of  
25 Arizona Administrative Code ("A.A.C.") R14-2-1901 *et seq.* in connection with the purchase of certain  
26 assets and transfer of Primus's customers to Ionex Communications North, Inc. dba Birch  
27 Communications ("Ionex"). Primus and Ionex have now completed the transfer of assets and  
28 customers.

3. On October 3, 2016, Primus filed an application with the Commission requesting to  
cancel its CC&N to provide resold interexchange telecommunications services within the State of  
Arizona. Primus also requested a waiver of the notice and publication requirements as set forth in  
A.A.C. R14-2-1107 (A)-(B).

1           4.     On November 3, 2016, the Commission's Utilities Division ("Staff") filed a Staff Report  
2 in this matter, recommending approval of Primus's application.

3           5.     Staff states that the Commission's Consumer Services Section reported one resolved  
4 billing complaint filed against Primus between January 1, 2013, and October 19, 2016. Further, Staff  
5 states that Primus filed its 2015 Utilities Annual Report on April 19, 2016. Finally, Staff states that the  
6 Commission's Corporation Division indicated that Primus is not in Good Standing for failing to file its  
7 2016 Annual Report.

8           6.     Pursuant to A.A.C. R14-2-1107(A)(2), telecommunications companies are required to  
9 provide notice to all affected customers when they intend to discontinue services. Further, A.A.C.  
10 R14-2-1107(B) requires that telecommunications companies publish legal notice of their intent to  
11 discontinue service.

12          7.     In its application, Primus states it no longer provides any telecommunications services  
13 to Arizona customers.

14          8.     Staff recommends the notice requirement contained in A.A.C. R14-2-1107 be waived.

15          9.     Staff further recommends approval of Primus's application to cancel its CC&N and  
16 states that upon cancellation, Primus will no longer be subject to the requirements set forth in Decision  
17 No. 63529.

18          10.    Staff's recommendations to waive the notice requirements of A.A.C. R14-2-1107 and  
19 to approve Primus's application for cancellation of its CC&N to provide resold interexchange  
20 telecommunications services within the State of Arizona are reasonable and should be adopted.

21                   **CONCLUSIONS OF LAW**

22          1.     Primus is a public service corporation within the meaning of Article XV of the Arizona  
23 Constitution and A.R.S. §§ 40-281, 40-282 and 40-285.

24          2.     The Commission has jurisdiction over Primus and the subject matter of the application.

25          3.     The cancellation of Primus's CC&N to provide resold interexchange  
26 telecommunications services within the State of Arizona is in the public interest.

27          4.     Granting waiver of the notice and publication requirements set forth in A.A.C. R14-2-  
28 1107(A)-(B) is reasonable in this matter.

5. Staff's recommendations are reasonable and should be adopted.

**ORDER**

IT IS THEREFORE ORDERED Primus Telecommunications, Inc.'s application to cancel its Certificate of Convenience and Necessity to provide resold interexchange telecommunications services within the State of Arizona is hereby approved.

IT IS FURTHER ORDERED Primus Telecommunications, Inc. is hereby granted a waiver of the notice and publication requirements set forth in A.A.C. R14-2-1107 (A)-(B).

IT IS FURTHER ORDERED Primus Telecommunications, Inc.'s tariffs on file with the Arizona Corporation Commission are hereby cancelled and Primus Telecommunications, Inc. is no longer subject to the requirements in Decision No. 63529.

IT IS FURTHER ORDERED this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN LITTLE

COMMISSIONER STUMP

COMMISSIONER FORESE

COMMISSIONER TOBIN

COMMISSIONER BURNS

IN WITNESS WHEREOF, I, JODI A. JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_ 2016.

JODI A. JERICH  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_  
BS:rt

1 SERVICE LIST FOR:

PRIMUS TELECOMMUNICATIONS, INC.

2 DOCKET NO.:

T-03243A-16-0352

3 Michael Nowlan

Chief Executive Officer

4 PRIMUS TELECOMMUNICATIONS, INC.

7901 Jones Branch Drive, Suite 900

5 McLean, Virginia 22102

6 Janet Wagner, Interim Chief Counsel

Legal Division

7 ARIZONA CORPORATION COMMISSION

1200 West Washington Street

8 Phoenix, AZ 85007

Attorneys for Utilities Division

9 Legaldiv@azcc.gov

JXHatch-Miller@azcc.gov

10 **Consented to Service by Email**

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28